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**THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION**

MILTON BARTHOLOMEW,
 Plaintiff,

vs.

GENERAL ELECTRIC COMPANY,
 NEWPORT NEWS SHIPBUILDING
 AND DRY DOCK COMPANY, and
 DOES 1-300,
 Defendants.

No. C05-4947 MMC

JOINT MOTION AND STIPULATION TO
 STAY; ~~PROPOSED~~ ORDER

Pursuant to Civil L. R. 7-11 and 7-12, the following parties hereby stipulate to, and respectfully move the Court for, an Order extending time as set forth in the *Case Management Scheduling Order* filed December 8, 2005 (Document 5), for the following good cause:

Defendant NEWPORT NEWS SHIPBUILDING AND DRY DOCK COMPANY filed Document 9, a Notice to Tag Along Action regarding the pending Multidistrict Litigation (“MDL”) in the Eastern District of Pennsylvania, seeking among other things, to move Jurisdiction of this matter to that District.

On July 29, 1991, the Judicial Panel on Multidistrict Litigation (“JPML”) entered an order transferring all asbestos personal injury cases pending in the federal courts to the United States District Court for the Eastern District of Pennsylvania, for coordinated pretrial

1 proceedings pursuant to 28 U.S.C. § 1407. That order also applies to “tag-along actions,” or
2 actions involving common questions of fact filed after January 17, 1991. Such actions are to be
3 transferred to the Eastern District of Pennsylvania as part of MDL 875, for coordinated pretrial
4 proceedings.

5 On February 10, 2006, in response to the notice of Defendant NEWPORT NEWS
6 SHIPBUILDING AND DRY DOCK COMPANY, the Judicial Panel on Multidistrict Litigation
7 (“JPML”) issued its Conditional Transfer Order (“CTO-258”) and transmitted said order to the
8 parties in this action. (A true and accurate photocopy of the letter and CTO-258 is attached
9 hereto as Exhibit “A”).

10 Pursuant to CTO-258, it becomes effective upon filing with the United States District
11 Court for the Eastern District of Pennsylvania. The “Condition” referred to in this Conditional
12 Transfer Order is the 15 day stay pending opposition which has since passed. As no party filed
13 an objection, the 15 day stay of transmission of the Order expired on February 25, 2006 and it
14 was sent to and has been received by the Pennsylvania Court.

15 By operation of CTO-258, it appears that Jurisdiction over this matter has already
16 transferred to the Eastern District of Pennsylvania.

17 The JPML has held that a district court has the authority to stay pending a transfer order.
18 *In re Asbestos Products Liability Litigation*, 170 F. Supp. 2d 1348, 1349 n.1 (J.P.M.L. 2001)
19 (“[T]hose courts concluding that such issues should be addressed by the transferee judge need
20 not rule on them, and the process of 1407 transfer in MDL-875 can continue without any
21 unnecessary interruption or delay.”)

22 The parties hereby respectfully request that the Court stay the deadlines set in place by
23 the Order of December 8, 2005 (Document 5), as jurisdiction has been transferred.

24 Due to the pending action by the Clerk of the JPML, the parties hereby STIPULATE to
25 and respectfully request the Court VACATE its *Case Management Scheduling Order* filed
26 December 8, 2005 (Document 5). The parties further stipulate to and move that the Court issue
27 an Order STAYING this action as jurisdiction has been transferred to the Eastern District of
28 Pennsylvania.

1 The parties make this Motion on the grounds that a stay of this action would (a) promote
2 judicial efficiency, (b) allow consistency in pretrial rulings, and (c) be most convenient to the
3 parties.

4 Dated: March 1, 2006

BRAYTON♦PURCELL LLP

/s/ David R. Donadio

6
7 By: _____
David R. Donadio
Attorneys for Plaintiffs

9 Dated: February 28, 2006

SEDGWICK, DETERT, MORAN &
ARNOLD, LLP

/s/ Damon McClain

11
12 By: _____
Damon McClain
Attorneys for Defendant
GENERAL ELECTRIC COMPANY

14 Dated: March 1, 2006

HAIGHT BROWN & BONESTEEL LLP

/s/ Daniel J. Kelly


16
17 By: _____
Daniel J. Kelly
Attorneys for NEWPORT NEWS
SHIPBUILDING AND DRY DOCK
COMPANY

20 ~~PROPOSED~~ ORDER

21 IT IS HEREBY ORDERED that the hearing date and deadlines specified in the *Case*
22 *Management Scheduling Order* filed December 8, 2005 (Document 5), are hereby VACATED.

23 IT IS FURTHER ORDERED that this action is STAYED pending transfer to the United
24 States District Court for the Eastern District of Pennsylvania.

25 Dated: March 3, 2006 _____

26 
27 Maxine M. Chesney
United States District Court Judge